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A non-profit coalition to promote the efficient production of quality food and fiber while protecting human health, personal property and the environment, through the integrated, responsible use of pest management products, soil nutrients and biotechnology.

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February 1, 2021

Representative Fahey and Members of the House Committee on Housing:

As a recognized leader in Oregon, advocating for the safe and responsible use of pesticides and their critical role in integrated approaches to managing pests, Oregonians for Food and Shelter (OFS) submits the following response to HB 2409. We urge the committee to carefully consider existing statutory definitions related to pesticides, the existing structure for protection of homeowners within HOAs, and the potential unintended consequences to HOA pest management plans.

HOAs typically oversee the common assets of a property/area, manage its finances and business affairs, set and enforce rules, and are tasked with addressing maintenance and upkeep of the area. HOAs commonly establish provisions regarding types and sizes of plantings and vegetation maintenance. Rules may also dictate the use of particular fertilizers, pesticides, or even sprinkler systems for maintenance. Each HOA, often made up of volunteer resident members, serves as the "local government" for these decisions.

As such, decisions related to pest management and landscaping within HOAs belong with the governing body of each individual HOA, whose specific rules and regulations will be unique and varied based on local contexts, needs and preferences. The HOA structure already allows for objecting members to address specific issues within their communities and through their local boards.

Further, HOAs may interact with other government overlays to protect public health, ensure safety, or meet environmental goals. For example, ODA has worked closely with HOAs during Japanese beetle eradication efforts. Confusion could be created if vector control district tasked with addressing a local risk needed to defer to an HOA property owner pesticide restriction due to the implications of HB 2409. Would that same district be required to wait an arbitrary 7-days as outlined in Section 2(2)? What public health benefit does a 7-day notification and waiting period serve during a pest outbreak? Our local and state agencies need flexibility to address threats from noxious weeds, invasive species, and rodent or other wildlife outbreaks.

Effective management of insects, plant diseases, weeds, and vertebrate pests such as rodents is critical in urban and residential settings, and often targets pests that pose risks to public health or ecological balance. Our federal regulatory system fully considers residential contexts as part of ongoing pesticide risk assessment and review processes to ensure safety. HOA pesticide application to owner property is regulated through ODA, requiring HOAs to hold operator licenses, and applicators to hold commercial applicator licenses. This process



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ensures safety, including the protection of vulnerable groups considered within our state and federal regulatory system.

Finally, and perhaps most importantly, we are concerned that HB 2409 attempts to redefine “pesticide” in Section 2(1)(a) in a way that conflicts with state and federal law. The assumption seems to be that organic products are safer or less toxic, and that they can always be substituted effectively for conventional pesticides. This encourages a false narrative, which does not align with current pest management science or the considerations associated with residential pesticide use. In fact, organic-approved pesticides can require risk mitigations to protect pollinators and humans, and certainly many require PPE when handling. And many urban and residential pest issues cannot be effectively managed with organic-approved products alone.

At a minimum, the committee should align the definition of “pesticide” with state and federal law so as to avoid creation of conflicting and confusing statutes. However, this concept certainly deserves further thinking to ensure that property owners within HOAs who might choose to opt-out would still be obligated to consult privately with licensed professionals to treat problematic pests and disease vectors and to achieve the desired results of the any HOA pest management plan, or collaborative plan with local municipalities or state agencies. Including exemptions for the management of invasive pests is just as important as other ecological or public health emergencies.

While well-intentioned, we do foresee multiple problematic implications associated with this bill.

Respectfully,

Katie Murray
Executive Director, Oregonians for Food and Shelter